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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

* * * * *

UNITED STATES OF AMERICA

v.

CENTERA BIOSCIENCE
AND
PAUL EFTANG

*

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* 23-cr-69-01-TSM

* 23-cr-69-02-TSM

* October 30, 2023

* 10:10 a.m.

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TRANSCRIPT OF ARRAIGNMENT AND PLEA HEARING
BEFORE THE HONORABLE TALESHA LEAH SAINT-MARC

APPEARANCES:

For the Government: Alexander S. Chen, AUSA
U.S. Attorney's Office

For the Defendants:

(Centera Bioscience) George M. Karavetsos, Esq.
Allison Leigh Borgatti, Esq.
Buchanan, Ingersoll & Rooney, P.C.

Thomas P. Colantuono, Esq.
Ward Law Group

(Paul Eftang) Paul K. Charlton, Esq.
Dentons US LLP

Probation: Riaka McCormick

Court Reporter: Susan M. Bateman, RPR, CRR
Official Court Reporter
United States District Court
55 Pleasant Street
Concord, NH 03301
(603) 225-1453

P R O C E E D I N G S

THE CLERK: This Court is now in session and has for consideration an arraignment and plea hearing in the matter of the United States versus Centera Bioscience and Paul Eftang, case number 23-cr-69-TSM.

Will counsel for the government and counsel for the defendants please identify themselves for the record?

MR. CHEN: Alexander Chen for the government, your Honor.

THE COURT: Good morning.

MR. CHEN: Good morning.

MR. CHARLTON: Good morning, your Honor.

Paul Charlton with Dentons Law Firm appearing pro hac vice with the Court's permission.

I represent Paul Eftang in his individual capacity, your Honor.

THE COURT: Good morning.

MR. CHARLTON: Good morning.

MR. KARAVETSOS: Good morning, your Honor.

George Karavetsos appearing pro hac vice as well, and I represent Centera Bioscience.

THE COURT: Good morning.

MR. KARAVETSOS: Good morning.

MS. BORGATTI: Good morning, your Honor.

Allison Borgatti, and I'm appearing pro hac vice on

1 behalf of Centera Bioscience.

2 THE COURT: Good morning.

3 MR. COLANTUONO: And I'm Attorney Thomas Colantuono
4 from the Ward Law Group in Manchester acting as local counsel
5 here today.

6 And I'm sitting back there because I'm a little
7 under the weather, and that's with the permission of the Court
8 if that's okay.

9 THE COURT: That's fine.

10 MR. COLANTUONO: Thank you.

11 THE COURT: All right. Good morning everyone.

12 Since we have both defendants, one in an individual
13 capacity and one serving as CEO and president, my intent is
14 just to do one colloquy.

15 Does anyone have any objection to that?

16 MR. CHEN: No objection.

17 MR. CHARLTON: No, your Honor.

18 MR. KARAVETSOS: No, your Honor.

19 THE COURT: Okay. So I'll ask my deputy to swear
20 in the witness, please.

21 (The clerk swears in Paul Eftang)

22 THE CLERK: Please state your name and spell your
23 last name for the record.

24 THE DEFENDANT: Paul Eftang, E-F-T-A-N-G.

25 THE CLERK: Thank you.

1 THE COURT: Okay. Thank you.

2 And everyone can remain seated throughout this.

3 Thank you.

4 So I just want to start out, Mr. Eftang, with just
5 advising you of a couple of rights that you have today.

6 First off, it is your right to remain silent.
7 You're not obligated to say anything today. Certainly I'm
8 happy to hear from you, but to the extent that you would like
9 to remain silent, you do have that right because anything you
10 say can be used against you.

11 The second right you have is that you have a right
12 to counsel both individually and -- when I refer to you, I'm
13 going to be referring to you in your individual capacity and
14 as president and CEO of Centera. You have a right to counsel.
15 And if you can't afford counsel, you have the right to ask the
16 Court to appoint counsel.

17 Do you understand that right?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Okay. One thing I'll just remind the
20 parties and myself is that we have a reporter here today, and
21 so just try to talk a little bit slowly and not over each
22 other. I have a tendency to talk fast, and so she will flag
23 me down if I do talk too quickly for you, okay? All right.
24 Thank you.

25 All right. So you've been brought before me today

1 on an information, a one-count information, that charges
2 introduction of misbranded drugs into interstate commerce in
3 violation of 21 U.S.C. Section 331(a).

4 Have you had a chance to review that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Okay.

7 And counsel, both counsel, do you have a sense that
8 your client understands that information?

9 MR. CHARLTON: I do, your Honor.

10 MR. KARAVETSOS: Yes, your Honor.

11 THE COURT: Okay. Thank you.

12 So we will move forward with the colloquy now, and
13 during the hearing, sir, I'm going to ask you several
14 questions. And everything we say, as I mentioned, is going to
15 be recorded and taken down by a court reporter. I'm going to
16 need you to answer my questions out loud so that we can have
17 an accurate record of what takes place today.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Thank you.

21 If you don't understand a question that I ask, you
22 should ask me to explain it because it's important for you to
23 understand every question that I ask you today.

24 You should also consult your attorneys if you have
25 any questions, and I'll ask you first to ask your attorneys

1 the questions, and then, if appropriate, they can relay those
2 questions to me.

3 Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: In addition, I'm entitled to truthful
6 answers, and so that's why you were put under oath just a
7 minute ago. And so the answers you give me to my questions
8 could be used against you later in a prosecution for perjury
9 or a prosecution for making a false statement if you don't
10 answer truthfully. So it's very important that you tell me
11 the truth today.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: How old are you, sir?

15 THE DEFENDANT: I am 38.

16 THE COURT: And tell me about your education.
17 How far did you go in school?

18 THE DEFENDANT: I did two years at Arizona State
19 University, but I didn't finish.

20 THE COURT: Any other education?

21 THE DEFENDANT: Just, you know, professional
22 education. No higher education.

23 THE COURT: Okay. Do you read and write in
24 English?

25 THE DEFENDANT: I do.

1 THE COURT: And have you ever been treated for any
2 mental health issues?

3 THE DEFENDANT: I was diagnosed with depression
4 when I was in high school.

5 THE COURT: Okay. Are you currently taking any
6 medications for that diagnosis?

7 THE DEFENDANT: No, your Honor.

8 THE COURT: All right. Have you taken any other
9 medications today?

10 THE DEFENDANT: Just Zyrtec.

11 THE COURT: Okay. And is the Zyrtec -- is it just
12 for traditional -- for allergies?

13 THE DEFENDANT: Antihistamine, yeah.

14 THE COURT: Okay. Have you ever been treated for
15 any drug or alcohol addiction?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: And are you presently under the
18 influence of any alcoholic beverage or other prescribed
19 medication?

20 THE DEFENDANT: No.

21 THE COURT: And the Zyrtec, does it cause you to
22 have any difficulties understanding the proceedings?

23 THE DEFENDANT: No.

24 THE COURT: Okay.

25 So I have in front of me the two plea agreements,

1 and I understand one is signed by you individually and one is
2 signed by you in your capacity as president and CEO of Centera
3 Bioscience.

4 Are these both your signatures on these documents?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Okay. Thank you.

7 And before signing the plea agreements did you
8 review every line of both plea agreements with your respective
9 counsel?

10 THE DEFENDANT: Yes.

11 THE COURT: Okay.

12 Attorney Charlton, I'll address these questions to
13 you first.

14 Has your client told you anything or have you
15 observed anything about your client involving medication,
16 drugs, alcohol, mental health issues, or other factors?

17 Please, you can remain seated.

18 MR. CHARLTON: Thank you, your Honor.

19 No, your Honor, I have not seen anything that would
20 be of a concern. No, your Honor.

21 THE COURT: Okay. And have you reviewed with your
22 client the charges to which he is to plead guilty to today?

23 MR. CHARLTON: I have, your Honor.

24 THE COURT: All right. And have you reviewed each
25 paragraph of the plea agreement with him?

1 MR. CHARLTON: Yes, your Honor.

2 THE COURT: All right. Thank you.

3 I'm sorry if I pronounce this incorrectly.

4 Attorney Karavetsos; is that correct?

5 MR. KARAVETSOS: Karavetsos. It's close, your
6 Honor.

7 THE COURT: Okay. I'm sorry about that.

8 MR. KARAVETSOS: No worries.

9 THE COURT: I'll ask you those same questions.

10 Has your client told you anything in his capacity
11 as CEO or have you observed anything regarding medication,
12 drugs, alcohol, health issues that would be impactful today?

13 MR. KARAVETSOS: No, your Honor.

14 THE COURT: Okay. And have you reviewed the
15 charges as to the company with your client?

16 MR. KARAVETSOS: Yes, your Honor.

17 THE COURT: And have you reviewed each paragraph of
18 the plea agreement with him regarding the implications on the
19 company?

20 MR. KARAVETSOS: Yes, your Honor.

21 THE COURT: Okay. Thank you.

22 Sir, have you had enough time to discuss your case
23 and your guilty plea with both of your attorneys before
24 entering into your guilty plea today?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: And are you satisfied with the
2 representation that you've received from all of your attorneys
3 and the advice that they have given you so far in this case?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you think it's in your best
6 interests to plead guilty rather than to proceed to trial?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Okay. So the information is a document
9 containing the written charges that have been made against
10 you, and you've indicated that you've received a copy of the
11 information, correct?

12 THE DEFENDANT: Correct, your Honor.

13 THE COURT: All right. And have you fully
14 discussed the charge set forth in that information and the
15 case generally with both of your counsel -- or all of your
16 counsel rather?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And have you discussed with your
19 counsel any defenses to the charge that may be available to
20 you?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: My understanding is that you intend to
23 plead guilty as to Count 1 of the information; is that
24 correct?

25 THE DEFENDANT: That is correct, your Honor.

1 THE COURT: And Count 1 charges you with a
2 violation of Section 21 United States Code Section 331(a),
3 introduction of misbranded drugs into interstate commerce, and
4 that's the count that you intend to plead guilty on today?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Okay. And so to prove introduction of
7 misbranded drugs into interstate commerce in violation of 21
8 U.S.C. Section 331(a), the government must persuade all twelve
9 members of a jury beyond a reasonable doubt that there's
10 evidence on each of the following elements of this claim.

11 The first is that you introduced or caused the
12 introduction of a drug into interstate commerce, and the
13 second element is that the drug was adulterated or misbranded.

14 These are the elements of the charge to which you
15 would be pleading guilty to. Do you understand that?

16 THE DEFENDANT: I understand, your Honor.

17 THE COURT: So what the prosecutor is going to do
18 now is he's going to tell me the facts that the United States
19 Attorney would be able to prove at trial if this case were to
20 proceed.

21 I'm going to ask you to listen carefully to those
22 facts because after the prosecutor finishes I'm going to ask
23 you, first, whether you heard and understood the facts, and
24 then, second, I'm going to ask whether what he said is true to
25 the best of your knowledge. Okay?

1 THE DEFENDANT: Okay.

2 THE COURT: All right. Thank you.

3 Attorney Chen.

4 MR. CHEN: Thank you, your Honor.

5 If this matter went to trial, the government would
6 introduce evidence of the following facts:

7 Centera Bioscience is a company based in Tempe,
8 Arizona. Paul Eftang is the president and chief executive
9 officer of Centera Bioscience.

10 The Food and Drug Administration, or FDA, is
11 charged with enforcing the Food, Drug, and Cosmetic Act, or
12 FDCA. The FDCA defines drugs to include, one, articles
13 intended for use in the diagnosis, cure, mitigation,
14 treatment, or prevention of disease in man, 21 U.S.C. Section
15 321(g)(1)(B); and, two, articles (other than food) that are
16 intended to affect the structure or any function of the body
17 of man, 21 U.S.C. Section 321(g)(1)(C).

18 Federal regulations define intended use to mean the
19 objective intent of the persons legally responsible for the
20 labeling of drugs or their representatives. The intent may be
21 shown by such persons' expressions, the design or composition
22 of the drugs, or by the circumstances surrounding the
23 distribution of the drugs. This objective intent may, for
24 example, be shown by labeling claims, advertising matter, or
25 oral or written statements by such persons or their

1 representatives. It's under 21 CFR 201.128.

2 The FDCA defines label as a display of written,
3 printed, or graphic matter upon the immediate container of any
4 article, 21 U.S.C. Section 321(k), and labeling as all labels
5 and other written, printed, or graphic matter, one, upon any
6 article or any of its containers or wrappers, or, two,
7 accompanying such article. 21 U.S.C. Section 321(m).

8 A drug is misbranded under the FDCA if its labeling
9 fails to bear adequate directions for use. 21 U.S.C. Section
10 352(f)(1). Adequate directions for use means directions under
11 which a layman can use a drug safely for the purposes for
12 which it is intended. 21 CFR Section 201.5. A drug is
13 misbranded under this provision if it fails to include, among
14 other things, instructions concerning the quantity and
15 frequency of dosage for each intended use.

16 A drug is also misbranded under the FDCA if it is a
17 prescription drug and it was dispensed without the
18 prescription of a practitioner licensed by law to administer
19 prescription drugs. 21 U.S.C. Section 353(b)(1). A
20 prescription drug includes any drug which, because of its
21 toxicity or other potentiality for harmful effect, is not for
22 use except under the supervision of a practitioner licensed by
23 law to administer prescription drugs. 21 U.S.C. Section
24 353(b)(1)(A).

25 Between April 2017 and December 2021, Centera

1 Bioscience and Mr. Eftang sold multiple drugs, including
2 tianeptine, phenibut, adrafinil, and racetam drugs. The
3 racetam drugs included, but are not limited to, piracetam,
4 aniracetam, coluracetam, and phenylpiracetam. Centera
5 Bioscience and Mr. Eftang sold the drugs to consumers as
6 nootropic compounds intended to affect the structure or
7 function of the human body. These drugs are prescription
8 drugs due to their toxicity and potential for harmful effect.
9 Centera Bioscience and Mr. Eftang sold these prescription
10 drugs without a valid prescription from a practitioner
11 licensed to administer such drugs. Centera Bioscience and Mr.
12 Eftang shipped these drugs, or caused the shipment of these
13 drugs, to persons throughout the United States, including in
14 New Hampshire. Centera Bioscience and Mr. Eftang also
15 marketed the drugs as nootropics through online platforms like
16 Facebook and Google. Mr. Eftang and Centera Bioscience
17 employees also regularly made representations about these
18 drugs on a Reddit.com forum dedicated to Centera Bioscience
19 products.

20 The labeling of the tianeptine, adrafinil,
21 phenibut, and racetam drugs shipped did not bear adequate
22 directions for use.

23 Those are the facts the government would show at
24 trial.

25 THE COURT: Thank you.

1 Mr. Eftang, did you hear what the prosecutor said?

2 THE DEFENDANT: I did, your Honor.

3 THE COURT: And was what the prosecutor said true?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Was it correct?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Are you pleading guilty today because
8 you are guilty?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Now I'm going to summarize the terms of
11 the plea agreement regarding Centera and you individually.

12 In exchange for both of your plea agreements on
13 Count 1 of the information you all have agreed to the
14 following binding sentence stipulations:

15 The first is a year of probation, and the second is
16 that no fine shall be imposed.

17 Attorney Chen, did I miss anything?

18 MR. CHEN: No, not as to Mr. Eftang in his
19 individual capacity.

20 THE COURT: Okay. Thank you.

21 Okay. And as to Centera, the sentencing
22 stipulations are a term of three years of probation.

23 The conditions of probation shall include the
24 recommended conditions for organizations under USSG Section
25 8D1.4 that the Court deems applicable, a special assessment of

1 \$125 per count for a total of \$125, the forfeiture provisions
2 set forth in the plea agreement, and that no fine shall be
3 imposed.

4 Did I miss anything on Centera?

5 MR. CHEN: No, your Honor.

6 And, just for the record, the forfeiture provisions
7 are set forth in section 7 of the corporate plea, and they
8 contain an agreement to a criminal forfeiture money judgment
9 in the amount of \$2.4 million and the agreement to forfeit all
10 drugs seized by Customs and Border Protection and by the FDA's
11 Office of Criminal Investigations.

12 THE COURT: Thank you.

13 Did I miss anything else?

14 MR. KARAVETSOS: No, your Honor.

15 THE COURT: Thank you.

16 MR. CHARLTON: Your Honor, may I, just for the
17 record, state that on the elements of the offense this is a
18 strict liability offense.

19 THE COURT: Yes. Thank you.

20 MR. CHARLTON: Thank you, your Honor.

21 THE COURT: Okay. And so are those the terms of
22 the plea agreement with the United States as you understand
23 them?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Okay. Now what I want to do is I want

1 to go over the possible penalties that you could face given a
2 Class A misdemeanor guilty plea, okay? So these are the
3 maximum things that you would face, and these are -- in the
4 proposal these are in section 4.

5 So as to Centera, do you understand that a maximum
6 fine of \$200,000 could be imposed under 18 United States Code
7 Section 3571(c)(5)? Additionally, a term of probation of not
8 more than five years under 18 United States Code Section
9 3561(c)(2), and a mandatory special assessment of \$125, \$125
10 for each count of conviction, at or before the time of
11 sentencing under 18 United States Code Section
12 3013(a)(1)(B)(iii)?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay.

15 And as to you individually, the penalties for the
16 offense are a maximum term of prison -- a one year prison term
17 under 21 United States Code Section 331(a) and 333(a)(1), and
18 a maximum fine of \$100,000 under 18 United States Code Section
19 3571(b)(5), a term of supervised release not more than one
20 year under 18 United States Code Section 3583(b)(3), and that
21 your failure to comply with any of the conditions under your
22 supervised release could result in the revocation of your
23 supervised release requiring that you serve a prison term with
24 no credit for time already spent on supervised release, and
25 then, finally, a mandatory special assessment of \$25, \$25 for

1 each count of conviction, at or before the time of sentencing
2 under 18 United States Code Section 3013(a)(1)(A)(iii).

3 Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Okay.

6 So the sentencing guidelines do apply in this case
7 because this is an offense of a Class A misdemeanor, and the
8 sentencing guidelines -- the Sentencing Commission has issued
9 advisory sentencing guidelines that judges are required to
10 consider when sentencing and when deciding a sentence in a
11 criminal case.

12 Have you and your attorneys talked about the
13 sentencing guidelines and how they may apply in this case?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Now I can't yet determine the advisory
16 guidelines of the sentencing range in your case. I won't be
17 able to do that until after probation prepares its presentence
18 report. However, you and your attorney and the United States
19 Attorney will be given an opportunity to challenge the facts
20 in that presentence report.

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: After I make a decision about what
24 advisory guideline sentencing range applies in your case, I
25 will still have authority to impose a sentence that is more or

1 less severe than the sentence within the guidelines.

2 Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: However, I understand that the plea
5 agreement that you have is a binding plea agreement with a
6 specific sentence, and so I will defer acceptance of this
7 agreement until the time of the sentencing. And if I don't
8 accept the agreement, I will permit you to withdraw your plea
9 and you won't be allowed to withdraw your plea for any other
10 reason.

11 Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: So now I'm going to talk to you about
14 appellate waiver. I'm going to ask you now about your waiver
15 of the rights for appeal.

16 An appeal means that your case would be reviewed by
17 a higher court to make sure that everything happened correctly
18 in your case.

19 Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: You have a right to challenge your
22 guilty plea and any sentence I impose by taking a direct
23 appeal.

24 Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: By entering into a plea agreement you
2 have given up many of your rights to appeal. The appeal
3 rights that you're giving up are described in your plea
4 agreement.

5 Have you had a chance to go over those?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And do you understand what you're
8 giving up?

9 THE DEFENDANT: I do, your Honor.

10 THE COURT: Do you understand that by entering into
11 this agreement and entering into the plea of guilty you will
12 have waived or given up your right to appeal all or part of
13 your sentence that I impose?

14 THE DEFENDANT: I do, your Honor.

15 THE COURT: And do you understand that you're also
16 waiving your right to appeal the sentence I impose if it's
17 lower or within the sentencing guidelines, or, if it's
18 pursuant to a minimum mandatory sentence, if it's consistent
19 with or lower than the sentencing range stipulated in your
20 agreement?

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: In addition, you're waiving your right
24 to challenge certain aspects of your guilty plea and your
25 sentence with a separate process known as collateral review.

1 Do you understand that you're waiving that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: And, counsel, have you gone over your
4 clients rights of waiver of appeal in detail both as to Mr.
5 Eftang individually and as to the corporation?

6 MR. CHARLTON: We have, your Honor.

7 If I may say, I believe we said that he may have a
8 right for a collateral attack at some point in time in the
9 future, your Honor.

10 THE COURT: Oh. My apologies. That's right.
11 That's right. I'm sorry.

12 MR. CHARLTON: Thank you, your Honor.

13 THE COURT: You're welcome.

14 Do you understand that, my apologies, that you
15 would have a right to collateral attack?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Okay. Thank you.

18 And did your client understand those waivers?

19 MR. CHARLTON: Yes, your Honor.

20 MR. KARAVETSOS: Yes, your Honor.

21 THE COURT: Thank you.

22 Has the government extended any previous formal
23 plea offers to the defense?

24 MR. CHEN: No, your Honor.

25 THE COURT: Okay. Mr. Eftang, when you enter into

1 a guilty plea, you also give up important rights guaranteed by
2 the United States Constitution.

3 Do you understand that?

4 THE DEFENDANT: I do, your Honor.

5 THE COURT: You have the right to plead not guilty
6 as you originally did -- or to persist in that not guilty
7 plea. Excuse me. You have a right to plead not guilty in
8 this case.

9 Do you understand that?

10 THE DEFENDANT: I do, your Honor.

11 THE COURT: Okay. You have a right to a trial by
12 jury.

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: And during a jury trial you would have
16 the right to the assistance of counsel throughout.

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: You would have the right to see and
19 hear all witnesses and have them cross-examined in your
20 defense.

21 You would have a right not to testify unless you
22 voluntarily decided to do so in your own defense.

23 Do you understand those rights?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: You also have the right to ask the

1 Court to issue subpoenas and to direct and to challenge any
2 other evidence or challenge testimony.

3 Do you understand that?

4 THE DEFENDANT: I do, your Honor.

5 THE COURT: Okay. And if you were to go to trial,
6 you wouldn't be required to prove that you are innocent.

7 Do you understand that?

8 THE DEFENDANT: I do, your Honor.

9 THE COURT: Instead, it would be on the government
10 to prove your guilt beyond a reasonable doubt with respect to
11 every essential element of the offenses for which you've been
12 charged.

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: And you would have a right to a
16 unanimous jury. And by pleading guilty you're giving up that
17 right to a trial in which twelve jurors would have to
18 unanimously agree upon your guilt for your conviction.

19 Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: And so if you enter a guilty plea and I
22 accept your plea, there will be no trial and you'll have given
23 up your right to a trial as well as those other rights
24 associated with the trial as I just described.

25 Do you understand that?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Now in thinking of each of the rights
3 that I just went over, is it your intent by entering a guilty
4 plea to give up those rights?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Have there been any threats made
7 against you or anyone in your family or in your circle that's
8 led you to plead guilty today?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: Have there been any promises of
11 leniency or encouragement to enter into the guilty plea?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: And if I accept your guilty plea, the
14 only thing left in this case would be an imposition of a
15 sentence.

16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: So this is the last chance that you'll
19 have to change your mind before we go forward and I find you
20 guilty. You won't be able to withdraw from that plea.

21 Do you understand that?

22 THE DEFENDANT: I do, your Honor.

23 THE COURT: Okay. Are you ready to enter your plea
24 of guilty?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: All right.

2 Does your client waive a formal reading of the
3 information?

4 MR. CHARLTON: Yes, your Honor.

5 THE COURT: Thank you.

6 MR. KARAVETSOS: Yes, your Honor.

7 THE COURT: Thank you.

8 So as to Count 1, Mr. Eftang, in your individual
9 capacity, charging you with violation of 331(a), introduction
10 of misbranded drugs into interstate commerce, how do you
11 plead?

12 THE DEFENDANT: Guilty.

13 THE COURT: Okay. And as to your capacity as
14 president and CEO of Centera, how do you plead?

15 THE DEFENDANT: Guilty.

16 THE COURT: Thank you.

17 I accept your plea and I adjudge you guilty.

18 I'm now going to enter my findings into the record.

19 I have questioned Mr. Eftang and his counsel
20 regarding his guilty plea both individually and as the
21 president and CEO of Centera Bioscience.

22 Mr. Eftang and his counsel have advised me that
23 they have discussed the guilty plea and all aspects of the
24 charges against Mr. Eftang and Centera and any defenses that
25 they may have.

1 I have observed Mr. Eftang make answers. I've
2 observed his demeanor and his manner while answering my
3 questions and his apparent intelligence and attitude.

4 Mr. Eftang does not appear to be under the
5 influence of any medical (sic), drug, alcohol or any
6 substance, or any mental illness or disorder which might
7 affect his judgment in any manner.

8 I find that Mr. Eftang's plea of guilty has a basis
9 in fact.

10 I find that the guilty plea is free of any coercive
11 influence of any kind.

12 I also find there have been no promises of any kind
13 that have been made to Mr. Eftang by anyone apart from the
14 statements set forth in the written plea agreement which is on
15 file with this court.

16 I find that Mr. Eftang has entered the plea
17 competently and voluntarily based on a full knowledge of the
18 charges against him and the corporation and the consequences
19 of that plea.

20 So a date for sentencing has been set for February
21 5, 2024 at 10:00 a.m.

22 And I understand that the parties have an agreement
23 as to the release of Mr. Eftang; is that correct?

24 MR. CHEN: Yes, your Honor.

25 THE COURT: Okay. So I've reviewed the pretrial

1 report as well as the proposed conditions of release, and I do
2 find that they're sufficient. So I'm just going to go over
3 those with you right now, okay, Mr. Eftang? So that means
4 that you remain free until the sentencing and of course
5 thereafter assuming I accept the sentencing.

6 So it's ordered that the release of the defendant
7 shall be subject to the following conditions:

8 You shall not commit any offense in violation of
9 federal, state, or local law while on release in this case.

10 You must cooperate in the collection of a DNA
11 sample if that collection is authorized under 42 United States
12 Code 14135A.

13 You shall immediately advise the Court, defense
14 counsel, and the U.S. Attorney in writing before any changes
15 in your address or your telephone number.

16 And you shall appear at all proceedings as required
17 and surrender for service of any sentence imposed or directed.

18 Do you understand those conditions that I've gone
19 over?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Okay. And do you understand that a
22 failure to appear is another criminal offense which may result
23 in imprisonment?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Okay. And do you understand that if

1 you violate these conditions, that that's serious and could
2 lead to imprisonment as well?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Okay.

5 Do you have any questions about the conditions that
6 I've imposed? And, again, I'll just ask you to ask your
7 counsel first and then they can direct questions to me.

8 (The defendant confers with counsel)

9 THE DEFENDANT: No, your Honor.

10 THE COURT: Okay. So you will have some paperwork
11 to sign before you head out.

12 Is there anything else from any counsel?

13 MR. CHEN: Oh, just a quick clarification, your
14 Honor.

15 Did you say the date of sentencing is February 10?

16 THE COURT: It is February 5th --

17 MR. CHEN: 5th. Okay. Thank you.

18 THE COURT: -- at 10:00 a.m.

19 You're welcome. Anything else?

20 MR. CHARLTON: Nothing for the defense, your Honor.

21 MR. KARAVETSOS: No, your Honor.

22 THE COURT: All right. Thank you.

23 Thank you, Mr. Eftang.

24 MR. CHEN: Thank you.

25 (Conclusion of hearing at 10:42 a.m.)

C E R T I F I C A T E

I, Susan M. Bateman, do hereby certify that the foregoing transcript is a true and accurate transcription of the within proceedings to the best of my knowledge, skill, ability and belief.

Submitted: 12-1-23 /s/ Susan M. Bateman
SUSAN M. BATEMAN, RPR, CRR